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16 Attorneys for Defendant
17 Otto Trucking LLC

18 **UNITED STATES DISTRICT COURT**
19 **NORTHERN DISTRICT OF CALIFORNIA**
20 **SAN FRANCISCO DIVISION**

21 Waymo LLC,
22 Plaintiff,
23 v.
24 Uber Technologies, Inc., et al.,
25 Defendants.

Case No. 3:17-cv-00939-WHA

**DECLARATION OF NOAH JENNINGS IN
SUPPORT OF OTTO TRUCKING'S
MOTION TO COMPEL DEPOSITIONS OF
NATHANIEL FAIRFIELD, LEAH
BIJNENS, JOHN KRAFCIK AND
ANDREW BARTON SWEENEY**

Magistrate Judge: Hon. Jacqueline Scott Corley
Trial: October 10, 2017

Filed/Lodged Concurrently with:
1. Discovery Letter Brief
2. Declaration of Todd A. Boock

1 I, Noah Jennings, declare as follows:

2 1. I am an associate at the law firm of Goodwin Procter LLP, counsel of record for
3 Defendant Otto Trucking LLC (“Otto Trucking”). I make this declaration based upon matters
4 within my own personal knowledge and if called as a witness, I could and would competently
5 testify to the matters set forth herein. I make this declaration in support of Defendant Otto
6 Trucking LLC’s (“OT”) Motion to Compel Depositions of Nathaniel Fairfield, Leah Bijnens, John
7 Krafcik and Andrew Barton Sweeney (collectively, “the Witnesses”).

8 2. Attached as **Exhibit 1** is a true and correct copy of Otto Trucking LLC’s Second
9 Set of Request for Production of Documents and Things, dated June 16, 2017.

10 3. Attached as **Exhibit 2** is a true and correct copy of Waymo’s Objections and
11 Responses to Otto Trucking’s Second Set of Requests for Production (Nos. 52-67), dated July 17,
12 2017.

13 4. Attached as **Exhibit 3** is a true and correct copy of Waymo’s Initial Disclosures,
14 dated April 3, 2017. None of the Witnesses are identified in Waymo’s Initial Disclosures.

15 5. Attached as **Exhibit 4** is a true and correct copy of Waymo’s Supplemental Initial
16 Disclosures, dated June 21, 2017. None of the Witnesses are identified in Waymo’s Supplemental
17 Initial Disclosures.

18 6. Attached as **Exhibit 5** is a true and correct copy of Waymo’s Corrected
19 Supplemental Initial Disclosures, dated June 22, 2017. None of the Witnesses are identified in
20 Waymo’s Corrected Supplemental Initial Disclosures.

21 7. On August 18, 2017, the Court granted OT’s Motion to Compel Discovery related
22 to the investigation of former Waymo employees, including Anthony Levandowski (the “Order”).
23 Waymo subsequently produced approximately eighty (80) additional documents, as reflected by
24 an email correspondence from Waymo counsel Jeff Nardinelli on August 24, 2017, at 8:54 p.m.,
25 just over three hours before the fact discovery cutoff at midnight the same day. A true and correct
26 copy of Waymo’s production email is attached to this declaration as **Exhibit 6**.

27 8. Waymo’s August 24, 2017 production included a document Bates-stamped
28 WAYMO-UBER-00084602 – 00084608. A true and correct copy of this document is attached as

1 **Exhibit 7.** This document identified numerous individuals that were involved in Waymo's
2 investigation of Anthony Levandowski, including the Witnesses.

3 9. Attached as **Exhibit 8** is a true and correct copy of excerpts of the certified
4 deposition transcript of John Krafcik, dated August 2, 2017. Mr. Krafcik testified as to Tyto
5 LiDar that he did not have any “specific details in my recollection of when I first heard of it or
6 what the context was.” There were no other questions pertaining to Tyto or Odin Wave during his
7 deposition.

8 10. Attached as **Exhibit 9** is a true and correct copy of a document produced by
9 Waymo in this litigation, Bates-stamped WAYMO-UBER-00006391 – 00006392.

10 11. Attached as **Exhibit 10** is a true and correct copy of excerpts of the certified
11 deposition transcript of Pierre-Yves Droz, dated August 22, 2017.

13 I declare under penalty of perjury under the laws of the United States that the foregoing is
14 true and correct. Executed this 31st day of August, 2017 in Los Angeles, California.

/s/ Noah Jennings
Noah Jennings

1 **ATTORNEY ATTESTATION**

2 I hereby attest, pursuant to Local Rule 5-1(i)(3), that I obtained the concurrence in the
3 filing of this document from the signatory indicated by the conformed (/s/) of Noah Jennings.

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5 /s/ I. Neel Chatterjee
6 I.NEEL CHATTERJEE

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CERTIFICATE OF SERVICE

I hereby certify that I electronically filed the foregoing with the Clerk of the Court for the United States District Court for the Northern District of California by using the CM/ECF system on August 31, 2017. I further certify that all participants in the case are registered CM/ECF users and that service of the Declaration, including all public and redacted exhibits attached hereto, will be accomplished by the CM/ECF system.

I certify under penalty of perjury that the foregoing is true and correct. Executed this 31st day of August 2017.

/s/ I. Neel Chatterjee
I. Neel Chatterjee